

REMARKS

In an Office Action dated June 23 2006, the Examiner rejects claims 45-60 (all pending claims). In response to the Office Action, Applicants respectfully traverse the rejections. In light of the following arguments, Applicants respectfully request that this application be allowed.

The Examiner rejects claim 45 and under 35 U.S.C. §103 (a) as being unpatentable over U.S. Patent Number 4,918,730 issued to Schulze (Schulze) in view of U.S. Patent 5,918,730 issued to Blum et al (Blum) in further view of U.S. Patent number 5,327,521 issued to Savic et al. (Savic). In order to maintain a rejection the Examiner has the burden of providing evidence of prima facie obviousness. See MPEP §2143. See also In Re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In order to prove prima facie obviousness, the Examiner must provide evidence in the prior art of a motivation to combine or modify a reference, a reasonable expectation of success, and a teaching of each and every claimed element. *Id.* The Examiner has not provided a combination of references that teach each and every of the claim limitations.

Claim 45 recites that the hop size of the segments of the sampled work is less than the hop size of the reference signatures. Specifically, claim 45 recites “a plurality of segments of said plurality reference works having a known segment size and a known hop size and said predetermined hop size of said sampled work is less than said known hop size.” Schulze does not teach this limitation. Schulze does not teach hop size anywhere in the reference. Therefore, Schulze cannot possibly teach the hop sizes of the reference works are different from the hop sizes of the sampled work. The use of different hop sizes for the references and sampled works allows for better identification of the sampled work as they allow a greater possibility that a signature of a reference

segment aligns with a signature of a segment of the sampled work. Thus, Schulze does not teach hop sizes of two compared references being different.

Blum also does not teach that the hop size of segments in reference works are different from the hop size of a sampled work. Applicant has read the entirety of Blum and has not found teaching of hop size in Blum. Thus, it cannot teach having different hop sizes for the references and sampled work.

Savic also does not teach the limitation of the hop size for reference segments is different from the hop size of the sampled work. Savic is teaching a speech transforming system in which a recording of a voice is split into overlapping segments for analysis. See Col. 6, lines 7-19 and Col. 7, lines 3-17. Since there are no comparisons of segments of different items, Savic cannot teach that the hop sizes of the two items are different to try to make matches more likely.

Since none of the above cited references teach that the hop sizes of the references and the sampled work are different, the combination of the references does not teach this limitation. Thus, Applicant respectfully requests that the rejection of claim 45 be removed and claim 45 be allowed.

Claims 46-52 are dependent from claim 45. Thus, claims 46-52 are allowable for at least the same reasons as claim 45. Therefore, Applicants respectfully request that claims 46-52 be allowed.

Claim 53 recites an apparatus that performs the method of claim 45. Thus, Claim 53 is allowable for at least the same reasons as claim 45. Thus, Applicant respectfully requests that claim 53 be allowed.

Claims 54-60 are dependent from claim 53. Thus, claims 54-60 are allowable for at least the same reasons as claim 53. Therefore, Applicant respectfully requests that claims 54-60 be allowed.

If the Examiner has any questions regarding this response or the application in general, the Examiner is invited to telephone the undersigned at 775-586-9500.

Respectfully submitted,
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